

HOW DOES THE UNITED STATES
BENEFIT FROM A “NO” VOTE
FOR PERMANENT NORMAL
TRADE RELATIONS WITH CHINA?

*The answer is **it doesn't***
and the losers are the American consumer
and the American working man and woman

This is the message of

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A Defining Moment In History

Each member of the United States Senate faces important, even critical issues, every single day. But at the end of a career only a handful of votes prove, with hindsight's clarity, to have changed the movement of history. I believe that the upcoming vote on Permanent Normal Trade Relations with China is one of those historical confrontations.

This transcendent issue can be defined by a single question that every Member of the Senate must ask. The answer will guide the final vote of this Chamber.

The Question: How does the United States benefit from a "NO" vote?

The Answer: It doesn't. "NO" equals tragedy on a grand scale.

Will a "NO" vote suddenly and cheerfully reshape whatever infects the issue of human rights in China? It would not. To reject China as a normal and permanent trading partner would hardly incite the Chinese government to gratitude for this slight. The power of the U.S. to influence anything in China would be non-existent and every professional who casts a confiding eye on the Sino-USA relationship understands that aspect of the human condition. We would have repudiated the largest nation on earth. Why would China react in any other manner except fierce dismay at this humiliating loss of national 'face?' If you slap your neighbor's face in a public place, would that neighbor thereafter find it congenial to listen to, much less follow, your suggestions about how to improve his behavior toward his family or his children?

Will a "NO" vote increase job formation in the U.S.? Not only would this **NOT** be the case, it would produce the opposite effect. Does not every expert confirm that in the event of a "NO" vote, China would find it far more agreeable to do business with European countries, its neighbors in Asia, and its new friends in Latin America than with the U.S.? It would immediately revise its purchasing plans, so that every American enterprise now doing business in China and those who hope to export to China would find the gates closed to them, but wide open to all other nations. And if that is so, then American companies residing in this country would feel the pain of reduced revenues, developing into lost American jobs. Moreover, there would be no reduction in the appeal of Chinese goods here, nor is it likely that our government would suddenly ban or restrict the importation of Chinese products. Those who argue that we need to continue to grant NTR on an annual basis so that if the trade deficit gets even worse we could withdraw NTR, raise tariffs, and slam the door on imports from China are endorsing a defunct mythology. That's the kind of thinking that led to Smoot/Hawley and the Great Depression in an earlier era. Raising the cost of Chinese imports, or denying them entry would severely harm American consumers through higher prices on a wide range of goods ordinary folks buy.

So, how does a "NO" vote help the individual working man and woman in America? It doesn't. It hurts them.

Does a "NO" vote increase our national security? No one who is a student of security affairs and an observer of the antagonisms which run through the global arteries anticipates that China would more readily listen to our counsel in their relationship with, say, Taiwan after we rejected them in our Congress. When we deliberately exile a nation from our national community or force them to believe they are exiled, why should that nation feel any confidence in our counsel in other areas?

The bilateral WTO accession package that Ambassador Charlene Barshefsky and her band of first class associates negotiated with China offers an admirable opportunity to increase exports to China, products made by American working men and women in America, enlarging job-creation in America. But in the event of a "NO" vote, China will give the benefits of the Barshefsky agreement to all our trading partners, but the U.S. industry will be denied those benefits. We are the losers. Does any one believe differently? Most of us would find any such opposite view barren of reality.

I can testify from first hand experience that when China made pledges and promises to the MPAA, they redeemed their pledges and kept their promises, particularly in the area of piracy of intellectual property. In the pages that follow I outline for you in detail how China has worked intimately with MPAA representatives in battling thieves in China who were relentlessly stealing so much of our valuable property. These latter pages document the integrity of Chinese commitments to MPAA.

I pose all these questions on behalf of a creative industry which produces America's most wanted export, an industry that has a **SURPLUS balance of trade** with every one of the more than 150 countries whose audiences hospitably welcome our visual story telling. But in the interest of full disclosure, the MPAA member companies are not going to wax rich and prosperous from our current China trade or in the near term. We hope that the Chinese market for our films, TV programs, and home entertainment will grow persistently in the future. But for us now it is a small market. But the Chinese people love American movies. The agreement struck by Ambassador Barshefsky opens up new opportunities in the Chinese market for American visual entertainment. We believe that over time it will become a most alluring and expanded marketplace.

So it is that MPAA asks these questions because it is in the long

range best interests of this nation not to commit a bewildering blunder in rejecting permanent NTR for China. There is no other way to describe the gloomy results of a "NO" vote in the Congress.

The Economic Importance Of The American Filmed Entertainment Industry

The filmed entertainment industry is an economic engine, driving hundreds of thousands of well-paying jobs in the United States. The copyright industries, including the film industry, provided employment for 6.9 million US workers in 1997, or 5.3% of the US workforce. The copyright industries are a bigger employer than any single manufacturing sector. The number of US citizens employed in the copyright industries has grown by 24% over the past five years, and has more than doubled over the past 20 years. The rate of new job creation in the copyright industries is twice the rate of the U.S. economy as a whole.

The copyright industries are also big exporters. In 1997 the copyright industries' foreign sales and exports were approximately \$67 billion -- larger than agriculture, larger than autos and auto parts, larger than aircraft. For the filmed entertainment industry, foreign revenues topped \$12.3 billion in 1997. Foreign markets accounted for almost half the total revenues earned by the US film industry.

PNTR would benefit the American film industry

If Congress approves PNTR for China, the US film industry and its workers would benefit in the following ways:

- **China will double access for export of films by the US film**

studios. The quota for foreign “revenue-sharing” films will increase from the current level of 10 films per year to 20 films per year. (Revenue-sharing means that China splits boxoffice receipts at Chinese theaters on a 50-50 basis). Of significance to US independent film producers is China's pledge to permit access for an additional 20 foreign films per year on flat fee licensing terms. The combined film quota will grow from 40 to 50 total films per year by the third year.

China’s decision to double access for revenue-sharing films is significant. It shatters the old 10 revenue-sharing films per year limit that had held firm since 1995. The growth in the quota is also challenging China to make its film distribution system more efficient and to introduce some competition into its domestic film distribution system. These structural reforms will create the conditions to allow future growth in access for America films.

So far this year, "Matrix," "Stuart Little," "Double Jeopardy," and "General's Daughter" have been released in China. "Mickey Blue Eyes", "Mission to Mars," and "Bone Collector" will be opening soon. (A complete list of MPA member companies films released in China since 1994 is attached.)

If PNTR fails, film industries in other nations throughout the world will harvest the results of the successful negotiations of the USTR team.

- **China will, for the first time, permit foreign investment in joint ventures engaged in the distribution of videos.** By participating in the video distribution businesses, US companies can help build markets in China for US home video entertainment.
- **China has lifted its investment ban on cinema ownership.** US

investors will be allowed to own up to 49% in companies that build, own and operate cinemas.

The need for more cinemas in China is acute. The ratio of screens per person in China is approximately 1 screen per 122,000 persons, if one generously counts not only theaters dedicated solely to exhibition of motion pictures, but also general-use theaters that can exhibit movies as well as live performances. In contrast, the United States has 1 screen per 8,600 people.

Foreign capital to build new cinemas will help modernize China's aging cinema infrastructure, attract Chinese consumers back into cinemas, and increase demand for US films. It will also open a new export market for US companies that manufacture sound and projection equipment and other furnishings for new cinemas.

- **Tariffs on films and home videos will fall.** Tariffs on films will decline from the current level of 9% of the value of the film to 5%. Tariffs on home videos will drop from 15% to 10%. Significantly, China agreed to change the method they use to calculate those duties. Instead of calculating a percentage of the value of the films and videos, China will assess a specific duty that is not tied to the value of the product, substantially reducing the effective tariff rate.
- **China will assume full obligations to protect intellectual property, as required by the WTO's Agreement on Trade Related Intellectual Property.** China is one of the few countries in the world that took effective measures to halt large-scale pirate production and export of optical media piracy (Video CDs, DVDs, music CDs, and CD Roms.) While China continues to have a significant piracy problem in its domestic market, China is not the source of the pirate product. China

suffers from illegal import of pirate products made in places like Taiwan, Macau, Hong Kong and Burma. TRIPS provides a new tool to help encourage China to address its remaining domestic piracy problems.

The History of Intellectual Property Enforcement in China

The recounting of history is instructive. I was personally involved, along with my MPAA colleagues, in all the negotiations with China, and can confirm its realities. I pay tribute to the United States Trade Representative, Ambassador Charlene Barshefsky and her superbly qualified and energetic staff, for their successful labors, for which the U.S. film/TV/home video industry is grateful.

In January 1992, China and the U.S. entered into a Memorandum of Understanding that committed China to adopt Berne-compatible regulations to this copyright law and to join the Berne Convention and the Geneva Phonograms Convention. China complied promptly, making U.S. works fully eligible for protection in April 1991, amending its copyright regulations to in September 1992, joining the Berne Convention in October 1992 and adhering to the Geneva Phonograms Convention in June 1993.

A bilateral agreement signed in February 1995 addressed specific enforcement concerns. In response to the commitments contained therein, China established task forces to better respond to the pirate threat, promulgated Customs regulations to help control the import of optical media production equipment, instituted controls over the output of pirate CD plants, and conducted raids against retail pirate operations. A number of temporary plant closures and sanctions failed to stem the rising tide of pirate production in the initial year of the agreement, but USTR's continued close monitoring of the 1995 agreement led to permanent plant closures in late 1996.

To date, a total of 79 pirate plants, including 86 VCD production lines, have been closed down. Since that time, Chinese authorities have continued to monitor the production of optical media works closely. Last year, six new underground plants, which were bold enough to test the continued resolve of the Chinese government, were shut down by Chinese authorities.

China's Recent Actions Against Piracy

Although China has succeeded in halting the illegal export of pirated optical media products that had flooded worldwide markets in the mid-1990s, domestic markets in China continue to suffer from high levels of retail piracy. Much of the illegal import of pirate products is smuggled into China from Taiwan, Macau, Hong Kong and Burma.

Chinese policy makers officially recognize the problem, as demonstrated by a policy statement by Cultural Minister Sun Jiazheng at the National People's Congress Standing Committee meeting on February 28. Serious efforts are underway to try to bring the domestic problems under control.

Four Chinese authorities joined forces in March 2000 to hit DVD pirates in China. On March 2, 2000, the State Press and Publication Administration, the National Copyright Administration of China, the Ministry of Public Security and the State Administration of Industry and Commerce issued an urgent joint circular to urge every provincial, regional and municipal government authority to launch a special campaign against DVD piracy in China. During the special campaign, more than 200,000 pirated DVDs of MPA titles were seized, and 24 persons were arrested. Highlights of this recent action included (but were not limited to) the following:

- On March 15, 2000, Chinese authorities in Shanghai arrested a

DVD pirate and seized 24,000 pirated DVDs of MPA titles.

- On March 16-18, 2000, Chinese authorities smashed three main audio-video markets in Guangzhou, Panyu and Zhuhai and seized 80,000 pirated DVDs. Seven people were arrested.
- On March 17, 2000, Chinese authorities smashed an illegal warehouse in Fengtai and seized 4,000 pirated DVDs of MPA titles. Two people were arrested.

This recent action against the Digital Video Disc format follows a similar action last fall against the older Video CD format. In September 1999, Chinese conducted a nationwide anti-piracy campaign against the VCD copying of two different pirated series of blockbuster movies owned by MPA's member companies. More than 3 million pirated VCDs of MPA titles were seized.

On January 18, 2000, Chinese authorities put in place a National Anti-Piracy Reward Scheme in which monetary rewards will be issued to the informant for successful seizure of pirated products, including optical discs, publications and optical disc production line and machinery. The maximum reward is RMB Yuan 300,000 (US\$37,083) per optical disc production line or 2% of the total seizure value. Similar reward programs in Guandong and in Hong Kong have proven extremely useful in developing leads into the hidden operations of the criminals who produce and distribute pirated materials.

Appendix to testimony of Jack Valenti:

MPA FILMS RELEASED IN CHINA

1994

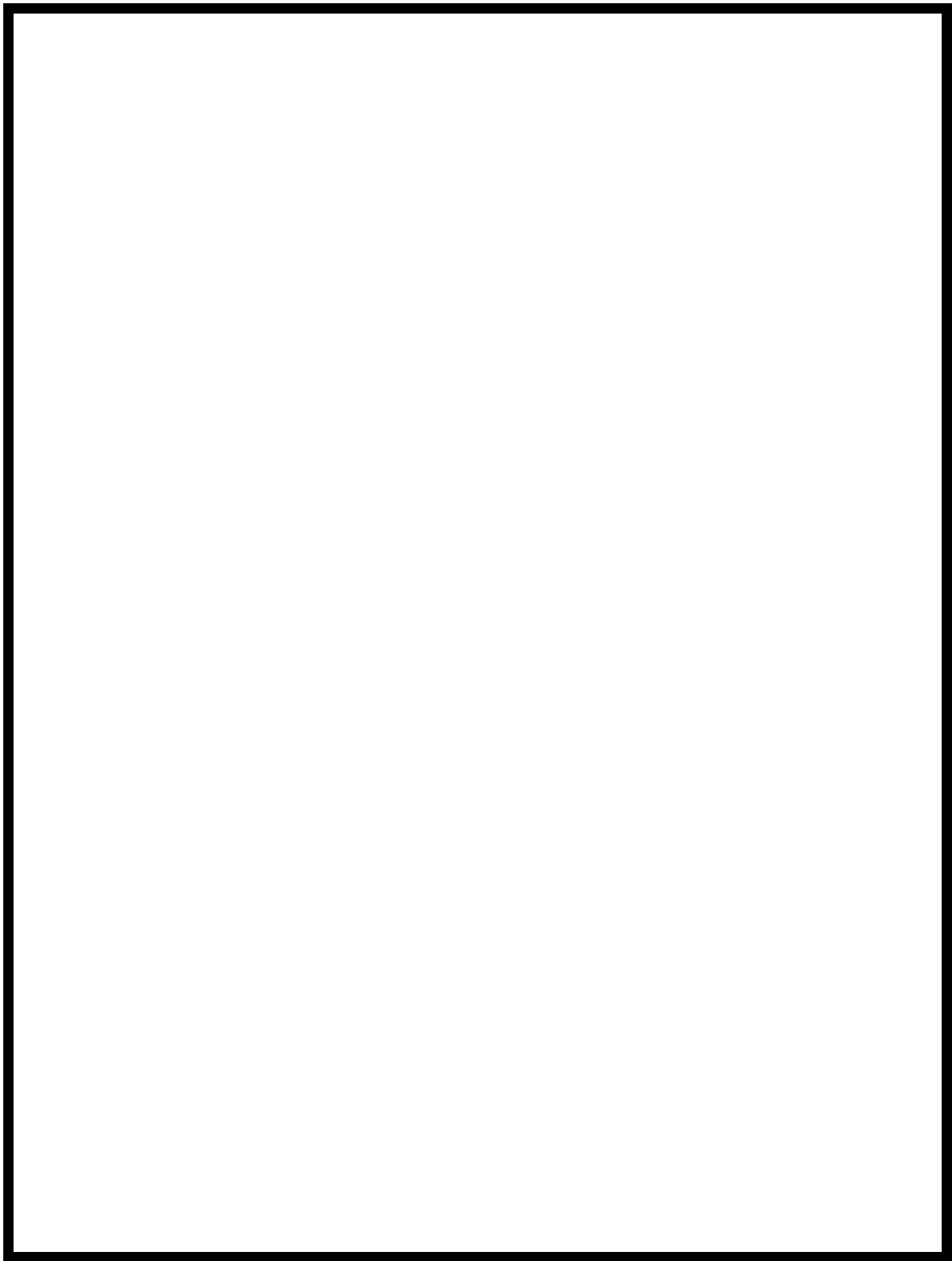
1. The Fugitive

1995

- True Lies
- Forest Gump
- The Lion King
- Speed
- Bad Boy
- Die Hard III

1996

1. Outbreak
- A Walk in the Clouds
 - Bridges of Madison County
 - Broken Arrow
 - Toy Story
 - Water World
 - Jumanji
 - Twister
 - The Rock



1997

- Mission Impossible
- Sabrina
- Eraser
- Courage Under Fire
- Dante's Peak
- Space Jam
- The Lost World
- Speed II
- Batman & Robin

1998

1. Volcano
- Daylight
 - Titanic
 - Home Alone III
 - Deep Impact
 - Saving Private Ryan

1999

- Mulan
- Enemy of the State
- Star Wars
- Tarzan
- Entrapment

2000

- Matrix
- Stuart Little
- Double Jeopardy

- General's Daughter
- Mickey Blue Eyes
- Mission to Mars
- Bone Collector